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11 UNITED STATES DISTRICT COURT  
12 NORTHERN DISTRICT OF CALIFORNIA  
13 SAN JOSE DIVISION

14 UNITED STATES OF AMERICA, ) Case No. CR-18-00258-EJD  
15 Plaintiff, )  
16 v. ) [PROPOSED] ORDER GRANTING MS.  
17 ELIZABETH HOLMES and ) HOLMES' MOTION TO EXCLUDE EXPERT  
18 RAMESH "SUNNY" BALWANI, ) TESTIMONY, OR IN THE ALTERNATIVE,  
19 Defendants. ) COMPEL ADEQUATE RULE 16 DISCLOSURE  
20 \_\_\_\_\_)

21 This CAUSE having come before the Court upon Defendant Elizabeth Holmes' Motion To  
22 Exclude Expert Testimony, Or, In The Alternative, Compel Adequate Rule 16 Disclosure. After due  
23 consideration of the filings, the governing law, and the argument of the parties,

24 IT IS HEREBY ORDERED that Ms. Holmes' motion is GRANTED. [The proposed expert  
25 testimony of Dr. Gerald Asin regarding PSA, diabetic tests, protein tests, and calcium tests is excluded  
26 from the trial in this case; and it is

27  
28 [PROPOSED] ORDER GRANTING MS. HOLMES' MOTION TO EXCLUDE EXPERT TESTIMONY  
OR, IN THE ALTERNATIVE, COMPEL ADEQUATE RULE 16 DISCLOSURE  
CR-18-00258 EJD

1 FURTHER ORDERED that the proposed expert testimony of Dr. Curtis Page regarding CBC  
2 and A1C tests is excluded from the trial in this case; and it is

3 FURTHER ORDERED that the proposed expert testimony of Dr. Audra Zachman regarding her  
4 lack of issues with hCG tests aside from the Theranos issue identified in the government's summary is  
5 excluded from trial in this case; and it is

6 FURTHER ORDERED that the proposed expert testimony of Ms. JoEllen Embry regarding  
7 unidentified patients' testosterone levels is excluded from trial in this case; and it is

8 FURTHER ORDERED that the proposed expert testimony of Dr. Linnerson regarding  
9 unidentified Theranos test results is excluded from trial in this case; and it is

10 FURTHER ORDERED that the proposed expert testimony of Dr. Edward Szmuc regarding  
11 hypothetical Theranos tests is excluded from trial in this case, and it is

12 FURTHER ORDERED that the proposed expert testimony of Ms. JoEllen Embry, Dr. Steven  
13 Linnerson, and Dr. Edward Szmuc regarding the absence of issues with other laboratories is excluded  
14 from the trial in this case.]

15 [The government is ORDERED to supplement its expert disclosure in accordance with Federal  
16 Rule of Criminal Procedure 16(a)(1)(G). The government shall provide by August 11, 2020 a disclosure  
17 that contains: (1) an explicit opinion for each Theranos test referenced in each witness's summary; (2)  
18 the specific patients and test results on which the witnesses are basing their opinions; (3) bases of and  
19 reasons for their conclusions that such test results were inaccurate or unreliable; and (4) the bases of and  
20 reasons for their opinions regarding the accuracy of other laboratories' tests.]

21 **IT IS SO ORDERED.**

22  
23 Dated \_\_\_\_\_

24 \_\_\_\_\_  
25 Hon. Edward J. Davila  
United States District Judge

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27  
28 [PROPOSED] ORDER GRANTING MS. HOLMES' MOTION TO EXCLUDE EXPERT TESTIMONY  
OR, IN THE ALTERNATIVE, COMPEL ADEQUATE RULE 16 DISCLOSURE  
CR-18-00258 EJD